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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/391,427
Filing Date: September 08, 1999
Appellant(s): MYERS ET AL.

Vincent J. Gnoffo, Reg. # 44,714
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9 December 2008 appealing from the Office action mailed 9 July 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,940,481	Zeitman	8-1999
5,948,040	DeLorme et al.	9-1999
6,085,976	Sehr	7-2000
5,877,704	Yoshida	3-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[1] Claims 12, 13, 18-21, 25, 38-43, 59-63, and 69-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zeitman (United States Patent #5,940,481) in view of Applicant's Background of the Invention and further in view of DeLorme et al. (United States Patent #5,948,040-hereinafter DeLorme).

(A) As to claims 12, 20, and 38, Zeitman discloses a method performed by a customer communication device operated by a customer, in a combination reservation and navigation system (i.e. parking management) (see Fig. 1 and abstract), comprising the steps of accessing reservation information representing a good or a service that may be reserved by customers from one of a plurality of businesses (i.e. user may reserve a parking facility)(col. 5,

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lines 1-5); making a request for a reservation of the good or the service responsive to the step of accessing the reservation information (col. 5, lines 7-9); receiving confirmation information, representing that the reservation has been made for the good or the service associated with one of the plurality of businesses, responsive to the step of making the request(i.e. receives confirmation of authorization to park there)(col. 5, lines 15-18); and receiving electronic navigation information from a reservation communication device over a communication link responsive to the step of receiving the confirmation information, wherein the electronic navigation information comprises directions to assist the customer in traveling from a customer geographic location to a business geographic location of the good or the service reserved by the customer (i.e. map of region in which user is interested in parking)(col. 5, lines 1-8).

NOTE: Examiner submits that, under the broadest reasonable interpretation of the presently amended claim language, Zeitman's provision of a map constitutes "directions to assist the customer in traveling from a customer geographic location to a business geographic location.."

In addition, it is noted that Applicant's Background of the Invention discloses the good and the service being tickets for performances, musical concerts, sporting events, or tickets for transportation carriers (page 1 of the specification). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Applicant's Background of the Invention within Zeitman with the motivation of allowing a customer to reserve other types of goods or services.

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Neither Zeitman nor the Background disclose electronic navigation information wherein the customer geographic location is automatically determined for the customer by a location-determining device.

Regarding the step including "...wherein the customer geographic location is automatically determined for the customer by a location-determining device in response to receipt of the confirmation information.", Delorme discloses a computerized travel reservation and planning system that generates a "map ticket" output in various media, for guidance en route that displays confirmations, tickets (i.e., other confirmations) and travel maps (i.e., directions) to mobile users, including GPS-linked users, via wireless communication units (Delorme et al.; Abstract). More specifically, Delorme discloses TRIPS software that displays travel origin, travel destination and route in conjunction with a reservation system (DeLorme et al.; col. 8, lines 33-48). Lastly, DeLorme discloses coupling of the TRIPS software to a radio location receiver or GPS receiver so the "A TRIPS having made reservations and after obtaining a printed map/ticket may then use TRIPS electronic output as downloaded into a PDA or GPS to guide the user during their travel" (DeLorme et al.; col. 10, lines 34-58). While DeLorme fails to specifically recite automated transmission of direction information and/or determination of user location in response to a confirmation, Examiner considers the coupling of the mapping and route assistance functions to the reservations and ticketing features of the TRIPS software as the functional equivalent of Applicant's automated determination of location in response to a confirmation. Examiner further submits that scenario-specific, response-driven transmission of data would be accommodated as a matter of user choice by the DeLorme system-enabled method.

However, as evidenced by DeLorme, it is well known in travel reservations and planning art to employ navigational technologies such as loran or GPS equipped devices to assist the user by generating signals corresponding to the geographical coordinate location and direction of travel of the user (DeLorme et al.; col. 9, lines 35-58). It is also well-known in the art to utilize the positional/location information to assist the user by providing travel directions (DeLorme et al.; col. 11, lines 40-49 and col. 75, lines 6-31).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the teachings of Zeitman and Applicant's Background of the Invention with those of DeLorme. The motivation to combine the teachings would have been to utilize well-established navigational technologies as employed by DeLorme, to assist a remote user by incorporating the user's "real time" geographic location, speed, and travel direction such that the user's present position is used as the departure or Start for routing calculations and travel directions (DeLorme et al.; col. 75, lines 6-26).

(B) As to claims 13 and 21, Zeitman discloses a method further comprising the steps of transmitting a payment to one of the reservation communication device and a business communication device for the good or the service associated with the reservation responsive to the step of making the request for the reservation (i.e. billing apparatus)(col. 3, lines 23-32); and receiving receipt information representing that the payment has been received by the one of the

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reservation communication device and the business communication device responsive to the step of transmitting the payment(col. 3, lines 23-32) .

(C) As to claims 18 and 39, Zeitman discloses a method further comprising the step of communicating the confirmation information to the one of the plurality of businesses located at the business geographic location responsive to the customer arriving at the business geographic location (user may report his arrival to central control unit or parking attendant)(col. 3, lines 58-63).

(D) As to claims 19, 25, and 40-42, Zeitman discloses a method wherein the confirmation information is communicated to a business communication device, associated with the one of the plurality of businesses, at the business geographic location over a radio frequency communication link responsive to the customer communication device being proximate to the business communication device (col. 4, lines 13-23).

(A) As to claim 43, Zeitman does not explicitly disclose a customer communication device according to claim 40 wherein the radio frequency communication interface is adapted to communicate packet signals.

However, DeLorme discloses a customer communication device adapted to communicate packet signals (i.e. mobile users can access the system via wireless communication)(see abstract, col. 14, lines 43-52 and col. 24, lines 29-67). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include a customer communication device

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adapted to communicate packet signals as disclosed by DeLorme within Zeitman and Applicant's Background of the Invention for the motivation of providing complete integration of all aspects of travel/activity required by a user (col. 6, lines 47-64).

(B) As to claim 59, Zeitman does not explicitly disclose the method of claim 12 further comprising the step of:

receiving second electronic navigation information wherein the second electronic navigation information assists the customer in traveling from the business geographic location to a second business geographic location of a second good or service reserved by the customer.

However, DeLorme discloses receiving second electronic navigation information wherein the second electronic navigation information assists the customer in traveling from the business geographic location to a second business geographic location of a second good or service reserved by the customer (i.e. waypoints and POIs)(col. 9, lines 12-28 and lines 35-47).It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include receiving second electronic navigation information wherein the second electronic navigation information assists the customer in traveling from the business geographic location to a second business geographic location of a second good or service reserved by the customer as disclosed by DeLorme within Zeitman and Applicant's Background of the Invention for the motivation of providing complete integration of all aspects of travel/activity required by a user (col. 6, lines 47-64).

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(C) As to claim 60, Zeitman does not explicitly disclose the method of claim 12 further comprising

prior to traveling to the business geographic location, accessing second reservation information representing a second good or service that may be reserved by customers from a second business of the plurality of businesses;

making a second request for a second reservation of the second good or service responsive to the step of accessing the second reservation information; and

receiving second confirmation information, representing that the second reservation has been made for the second good or service associated with the second business, responsive to the step of making the second request.

However, DeLorme discloses prior to traveling to the business geographic location, accessing second reservation information representing a second good or service that may be reserved by customers from a second business of the plurality of businesses (col. 9, lines 35-47);

making a second request for a second reservation of the second good or service responsive to the step of accessing the second reservation information (col. 9, lines 12-28 and lines 35-47); and

receiving second confirmation information, representing that the second reservation has been made for the second good or service associated with the second business, responsive to the step of making the second request (col. 15, lines 33-66). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the features claimed above as disclosed by DeLorme within Zeitman and Applicant's Background of the Invention for the

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motivation of providing complete integration of all aspects of travel/activity required by a user (col. 6, lines 47-64).

(D) As to claim 61, Zeitman does not explicitly disclose the method of claim 12 wherein the electronic navigation information comprises at least one of an e-text direction and a highlighted map travel path.

However, DeLorme discloses wherein the electronic navigation information comprises at least one of an e-text direction and a highlighted map travel path (col. 49, lines 60-65).). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the features claimed above as disclosed by DeLorme within Zeitman and Applicant's Background of the Invention for the motivation of providing complete integration of all aspects of travel/activity required by a user (col. 6, lines 47-64).

(E) As to claim 62, Zeitman does not explicitly disclose the method of claim 12 further comprising the step of selecting a route type from a plurality of route types associated with the electronic navigation information wherein the plurality of route types includes at least one of the quickest route and the shortest route.

However, DeLorme discloses the step of selecting a route type from a plurality of route types associated with the electronic navigation information wherein the plurality of route types includes at least one of the quickest route and the shortest route (col. 29, lines 19-31).). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the features claimed above as disclosed by DeLorme within Zeitman and Applicant's

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Background of the Invention for the motivation of providing complete integration of all aspects of travel/activity required by a user (col. 6, lines 47-64).

(F) As to claim 63, Zeitman does not explicitly disclose the method of claim 12 further comprising the step of determining the customer geographic location by at least one of a global positioning system or 911 cellular service locating.

However, DeLorme discloses comprising the step of determining the customer geographic location by at least one of a global positioning system or 911 cellular service locating (col. 10, lines 34-58). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the features claimed above as disclosed by DeLorme within Zeitman and Applicant's Background of the Invention for the motivation of providing complete integration of all aspects of travel/activity required by a user (col. 6, lines 47-64).

(G) As per claim 69, Delorme teaches a method wherein the good or the service comprises a transportation event (DeLorme et al.; col. 52, lines 23-42).

(H) As per claim 70, Delorme teaches a method wherein the transportation event comprises at least one of an airplane, a boat, and a bus (DeLorme et al.; col. 52, lines 23-42).

(I) As per claim 71, Delorme teaches a method wherein the good or the service comprises an entertainment event (DeLorme et al.; col. 52, lines 23-42).

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(J) As per claim 72, Delorme teaches a method wherein the entertainment event comprises at least one of a musical concert, a sporting event, and a live theater (DeLorme et al.; col. 52, lines 23-42).

(K) As per claim 73, Delorme teaches a method wherein the good or the service comprises an accommodation event (DeLorme et al.; col. 52, lines 23-42).

(L) As per claim 74, Delorme teaches a method wherein the accommodation event comprises at least one of a restaurant and a hotel (DeLorme et al.; col. 52, lines 23-42).

(M) As per claim 75, Delorme teaches a method wherein the reservation communication device comprises at least one of a telephone, a radio, a pager, and a personal digital assistant (DeLorme et al.; col. 10, lines 34-58).

(N) As per claim 76, Delorme teaches a method wherein the reservation communication device comprises a computer (DeLorme et al.; col. 10, lines 34-58).

(O) As per claim 77, Delorme teaches a method wherein the reservation communication device comprises cable television (DeLorme et al.; col. 15, lines 1-13).

(i) Regarding claims 69-77, the obviousness and motivation to combine as discussed with regard to claim 1 above are applicable to claims 69-76 and are herein incorporated by reference.

[2] Claim 14, 17, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zeitman (5,940,481) and Applicant's Background of the Invention and Delorme (5,948,040) as applied to claim 12 above, and further in view of Yoshida (5,877,704).

(A) As to claim 14, Zeitman and Applicant's Background of the Invention do not explicitly disclose a method according to claim 12 further comprising the step of

transmitting a request for the electronic navigation information responsive to the step of receiving the confirmation information.

However, Yoshida discloses receiving electronic navigation information upon receiving confirmation information (col. 4, lines 1-7 and lines 44-58). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include transmitting a request for the electronic navigation information responsive to the step of receiving the confirmation information as disclosed by Yoshida within Zeitman for the motivation of placing a reservation for a parking space from a remote site and provide roadway information as well (col. 1, lines 32-40 and col. 4, lines 1-7).

(B) As to claims 17 and 24, Zeitman discloses a method according to claims 12 and 20: wherein the steps of accessing the reservation information, making the request and receiving the confirmation information are performed by a fixed customer communication device (i.e. computer)(col. 3, lines 19-22), and

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Zeitman and Applicant's Background of the Invention do not explicitly disclose wherein the step of receiving the electronic navigation information is performed by a mobile customer communication device.

However, Yoshida discloses receiving electronic navigation information upon receiving confirmation information i.e. vehicle mounted device)(col. 3, lines 62-67 and col. 4, lines 1-7 and lines 44-58). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the step of receiving the electronic navigation information is performed by a mobile customer communication device as disclosed by Yoshida within Zeitman for the motivation of placing a reservation for a parking space from a remote site and provide roadway information as well (col. 1, lines 32-40 and col. 4, lines 1-7).

[3] Claims 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zeitman (5,940,481) and Applicant's Background of the Invention and Delorme (5,948,040) as applied to claims 12 and 20 above, and further in view of Sehr, Pat. No. 6,085,976.

(A) As to claim 15 and 22, Zeitman and Applicant's Background of the Invention do not explicitly disclose a method according to claims 12 and 20 wherein the customer information includes a customer profile representing preferences of the customer for the good or the service desired by the customer.

However, Sehr discloses the customer information includes a customer profile representing preferences of the customer for the good or the service desired by the customer (i.e. passenger's purchase habits)(col. 6, lines 10-15). It would have been obvious to one of ordinary

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skill in the art at the time of Applicant's invention to include the customer information includes a customer profile representing preferences of the customer for the good or the service desired by the customer as disclosed by Sehr within Zeitman and Applicant's Background of the Invention for the motivation of providing better quality of service (col. 2, lines 7-14).

[4] Claims 66-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zeitman (5,940,481), Applicant's Background of the Invention, and Delorme (5,948,040) as applied to claim 12, and further in view of Applicant's admission of prior art.

(A) As per claims 66-68, Applicant has failed to traverse the examiner's rejection of claims 66-68 based on Official Notice. Thus, it is respectfully submitted that Applicant has admitted that the features of claims 66-68 are well known in the prior art.

(10) Response to Argument

In the Appeal Brief filed 9 December 2008, Appellant makes the following arguments:

(A) The applied references fail to teach or suggest determining a customer geographic location for the customer by a location-determining device in response to receipt of confirmation information.

(B) The Office Action has provided no reference to show the features presented by dependent claims 66-68.

Examiner will address the Appellant's arguments in sequence as they appear in the Brief.

Argument (A):

In response to Appellant's argument A, Appellant correctly notes that Examiner relies on the teachings of DeLorme in addressing the limitation of "...wherein the customer geographic location is automatically determined for the customer by a location-determining device in response to receipt of the confirmation information".

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In further support of Appellant's argument A, Appellant clarifies the argument noting that the feature of "in response to receipt of the confirmation information" is the specific feature "missing" from DeLorme. Examiner agrees that DeLorme does not explicitly recite "in response to receipt of the confirmation information".

In response, Examiner disagrees that this feature is missing. DeLorme discloses a GPS system. The GPS system determines the customer location and assists in route planning. Examiner maintains that a GPS system utilized in the manner disclosed by DeLorme, i.e., "...obtaining a printed map/ticket may then use TRIPS electronic output as downloaded into a PDA or GPS to guide the user during their travel" (DeLorme et al.; col. 10, lines 34-58), at a minimum suggests "automatically determining location information". Examiner further maintains that obtaining a map/ticket and then downloading the electronic output into the GPS to guide the user is the equivalent of "in response to receiving the confirmation information".

Argument (B):

In response to Appellant's argument B, Examiner notes that claims 66-68 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Zeitman (USPN 5,940,481) in view of Applicant's Background of the Invention, in view of DeLorme (USPN 5,948,040), as applied to claim 12, and further in view of Admitted Prior Art.

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As an initial matter, it should be noted that throughout prosecution the features related to the auctioning of the good or service (including offers/counteroffers etc.) have appeared in the independent claims, in addition to dependent claims 66-68, and were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement because the Specification as originally filed fails to provide disclosure as to how the reservation communication device is able to auction the good or service to the highest bidder (see Office Action mailed 24 February 2005). The Specification provides no technical disclosure of the auction process as enabled by the device. The Specification merely indicates that the device could negotiate for the good or service or auction the good or service (see Specification page 15).

It should be further noted that the auctioning features including offers and counteroffers have been previously addressed by the reference Walker (USPN 5,794,207) (see Office Action mailed 24 February 2005: Walker et al.; col. 8, lines 42-50, col. 9, lines 45-51, col. 16, lines 12-62 and col. 18, line 56 – col. 19, line 28).

Both the enablement rejection and the applied teachings of Walker were no longer relied upon by the Examiner after the features were removed from the independent claims by amendment and, with respect to the dependent claims, were addressed in view of Admitted Prior Art following Appellant's failure to traverse of Examiner's Official Notice (see discussion below).

Examiner directs Appellant's attention to the Office Action, mailed 24 February 2005. In the noted action, Examiner addressed claims 66-68 as similar in scope to the claims 59-60, further

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noting that DeLorme discloses providing discounts and incentive offers (DeLorme; col. 14, lines 19-43). Examiner further noted that within DeLorme's disclosure of "offers", DeLorme does not explicitly disclose offers including counteroffers based on the time of day or volume sales of the product. From the rejection of claim 12, Examiner relied upon the teachings of Walker (noted above) in addressing the general teaching of auctions including offers and counteroffers.

Examiner properly addressed the missing elements of "based on the time of day" by taking Examiner's Official Notice that such offers based on time of day were well known in the electronic ticketing arts for the motivation of maximizing profits per plane load (e.g. peak time, off peak times).

In two subsequent responses, Appellant failed to properly traverse Examiner's use of Official Notice in addressing these features. In the response immediately following Examiner's proper use of Official Notice (response received 14 July 2005), Appellant argued that Zeitman, Yoshida, Walker et al., and Delorme fail to provide the noted teachings. There was no traversal of Examiner's Official Notice. Examiner's Official Notice was maintained in the subsequent Office Action, mailed 21 March 2006. In the response immediately following the action of 21 March 2006 (response received 27 October 2007), Appellant again argued that Zeitman, Yoshida, Walker and DeLorme fail to provide the noted teachings. Again, there was no traversal of Examiner's Official Notice. Accordingly, in the next Office Action (mailed 17 January 2007) Examiner entered the features in evidence as Admitted Prior Art.

Examiner maintains that rejection of claims 66-68 in view of Admitted Prior Art is proper.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/R. DAVID RINES/

Examiner, Art Unit 3686

/C Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626

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